



# U.S. DEPARTMENT of STATE

## Lesotho

### Country Reports on Human Rights Practices - [2004](#)

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Lesotho is a constitutional monarchy with King Letsie III as head of state. Under the Constitution, the King fills a ceremonial role, has no executive authority, and is proscribed from actively taking part in political initiatives. In May 2002, Prime Minister Pakalitha Mosisili, the leader of the Lesotho Congress for Democracy (LCD) party, was re-elected in free and fair elections. In the 2002 elections, the LCD won 79 of 80 constituency-based seats, and the opposition Lesotho Peoples Congress (LPC) won the remaining constituency seat; the 40 proportionally elected seats were divided among 9 opposition parties. Local government elections scheduled for November were postponed indefinitely, although the Government stated they would be held before April 2005. The judiciary was independent in law and practice.

The security forces consist of the Lesotho Defense Force (LDF), the Lesotho Mounted Police Service (LMPS), and the National Security Service (NSS). The Prime Minister is the Minister of Defense and National Security, with direct authority over the LDF and the NSS. The police force is under the authority of the Minister of Home Affairs and Public Safety. The LDF continued to be the subject of a national debate on the structure, size, and role of the armed forces. The NSS and the LMPS also continued to undergo comprehensive restructuring. Civilian authorities maintained effective control of security forces. Some members of the security forces committed human rights abuses.

The country, which has a population of approximately 2.2 million, is landlocked and surrounded by South Africa. Approximately 26 percent of the adult male work force worked in South Africa. Between 20 and 23 percent of the resident population was engaged in subsistence agriculture. Private sector activity dominated in the small manufacturing and construction sectors. Privatization and liquidation of formerly state-owned enterprises in the agro-industrial and agribusiness sectors was completed by the beginning of the year. Manufacturing sector employment exceeded that of government employment. Textile manufacturing employment exceeded 50,000. The high HIV/AIDS rate (almost 30 percent) and corresponding low life expectancy (less than 37 years), along with severe drought during planting season, negatively affected economic growth.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were unconfirmed allegations of torture by security forces and credible reports that the police at times used excessive force against detainees. Prison conditions were poor, and lengthy pretrial detention was a problem. There were long delays in trials. Domestic violence was common, and women's rights continued to be restricted severely in some areas. Societal discrimination against persons with disabilities was common. Some worker rights were restricted. Child labor was a problem in traditional agriculture and in the informal sector.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In August, the trials for the 25 members of the LDF accused of killing the Deputy Prime Minister in 1994 concluded. In 2003, 19 of the 25 persons initially arrested were released due to lack of evidence, and 1 died. The remaining 5 persons were convicted and received prison sentences ranging from 4 to 12 years.

An internal police investigation into the fatal shooting of two demonstrators in 2003 resulted in the opening and transmission of dockets to the office of the Director of Public Prosecutions for consideration and advice. This investigation remained ongoing at year's end.

#### b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution expressly prohibits such practices; however, there were allegations that security forces tortured persons and credible reports that the police at times used excessive force.

There was no action taken against security forces who reportedly tortured Theko Lerotholi and Malefa Mapheleba in 2003. Lerotholi, an LDF member arrested for suspicion of armed robbery, lodged a torture claim against the LMPS with the High Court. No date was set for the case to begin. There were a number of civil claims against the police for unlawful detention and assault stemming from this incident.

Prison conditions were poor, and facilities were overcrowded and in disrepair. Women were housed separately from men, and juveniles were housed separately from adults. Pretrial detainees often were held with convicted prisoners.

Prison regulations provide for visiting committees that were made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens. These committees may visit any prison without the prior knowledge of the prison director and generally were allowed to do so. The committee reports its findings to the prison director.

d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The LMPS is nationally managed, with the country divided into three regional police districts: North (Berea, Leribe, Butha-Buthe, and Mokhotlong), Central (Maseru, and Thaba Tseka Districts), and Southern (Qacha's Nek, Mphahlele, Mafeteng, Quthing). Each district is headed by an Assistant Commissioner of Police (equivalent rank of Colonel). The LMPS suffered from a significant shortage of resources, which sometimes limited the effectiveness of the police. Corruption was a problem; however, the Government continued its reform efforts. A Police Complaints Authority investigated public complaints against members of the Police Service.

Persons detained or arrested in criminal cases and defendants in civil cases had the right to legal counsel; however, there was no system to provide public defenders. The Ministry of Justice and the nongovernmental community (NGO) maintained a few legal aid clinics. The law provides for granting bail, which the authorities granted regularly and generally fairly.

Because of serious backlogs of court caseloads, pretrial detainees were a significant portion of the prison population, and pretrial remand could last months or even years.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consisted of the Court of Appeal (which meets semi-annually), the High Court, magistrates courts, and customary or traditional courts, which existed largely in rural areas to administer customary law. The High Court also provided procedural and substantive guidance on matters of law and procedure to military tribunals; however, it did not participate in judgments.

The authorities generally respected court decisions and rulings. There was no trial by jury. A single High Court judge normally adjudicated criminal trials with two assessors who served in an advisory capacity. In civil cases, judges normally heard cases alone. There was a large case backlog, which led to lengthy delays in trials (see Section 1.d.).

In the magistrates courts, some accused persons were not advised of their right to legal representation. Some cases proceeded without legal representation for the accused.

In civil courts, women and men were accorded equal rights; however, in traditional and customary courts, certain rights and privileges accorded to men were denied to women (see Section 5). When traditional law and custom were invoked in a court case, a male plaintiff could opt for customary judgments by a principal chief rather than a civil court, and the judgment was binding legally. This system greatly disadvantaged women.

Military tribunals have jurisdiction over military cases only. Decisions by military tribunals can be appealed only to a special court-martial appeal court, which was composed of two judges from the High Court, one retired military officer with a legal background, and the registrar of the High Court.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law does not fully protect citizens' privacy rights; however, there were no reports that authorities infringed on citizens' privacy rights during the year. Although search warrants were required under normal circumstances, the law provided police with wide powers to stop and search persons and vehicles and to enter homes and other places without a warrant.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

There were several independent newspapers that routinely criticized the Government. The official state-owned or state-controlled media consisted of one radio station, a 1½ hour daily newscast on a local television channel, and two weekly newspapers. All reflected official positions of the ruling party. There were seven private radio stations, but no private television station. South African and global satellite television and radio broadcasts were widely available.

Government ministers and other officials initiated a number of libel and defamation suits against members of the independent media. Some of these led to out of court settlements. The Mirror, an English language weekly, settled a case with a former cabinet minister and member of Parliament. In March, a Member of Parliament sued the Sesotho language paper Mololi. The case was still pending at year's end.

Internet services were freely available from a number of private Internet service providers.

The Government did not restrict academic freedom. Although the Government owned and administered the country's only university, the academic staff represented the full political spectrum and was free to express its views.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Unlike in the previous year, there were no reports that police killed demonstrators.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not use it.

The law provides for the granting of refugee status or asylum in accordance with the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government continued to cooperate with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government also has designated a Commissioner for Refugees. The Government has provided temporary protection to individuals who may not qualify as refugees under the 1951 U.N. Convention/1967 Protocol; however, the issue did not arise during the year.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

In the 2002 elections, the LCD party won 79 of the 80 constituency-based seats, the opposition LPC party won the remaining constituency seat, and the 40 proportionally elected seats were divided among 9 opposition parties; Prime Minister Mosisili, the leader of the LCD party, was re-elected. Domestic and international observers concluded that the elections were free, fair, peaceful, lawful, and transparent. The Basotho National Party has taken its seats in the National Assembly and participated in

Parliamentary proceedings.

Although there are no laws providing for access to information and access to government information was incomplete, websites of government ministries, parastatals, and private organizations provided significant information.

There were 14 women in the 120-member National Assembly and 12 women in the 33-member Senate. Four women were government ministers, and two women were assistant ministers. The Speaker of the National Assembly was a woman.

Approximately 98.5 percent of the population is Basotho. There were no members of minorities in the 120-member National assembly and none in the 33-member Senate. There were no members of minorities in the cabinet.

A provision in the Constitution requires that members of Parliament be able to speak; however, to date, this provision has not been invoked. The Minister of Justice, Human Rights, Rehabilitation, Law and Constitutional Affairs is blind.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

An independent Ombudsman institution exists to protect citizens against infringement of their rights by public sector agencies. The Ombudsman's office has intervened on several occasions against the government and private sector on issues such as: demanding the release of salary checks of employees withheld unlawfully, reinstatement of employees illegally suspended from work, compensation for people relocated to new areas, and compensation and repair of houses for communities living close to construction sites, such as result from largescale development projects.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination based on race, color, sex, language, political or other opinion, national or social origin, birth, or other status, and the Government generally respected these prohibitions in practice; however, the Constitution also recognizes customary law as a parallel legal system, and women's inheritance and property rights were severely restricted under the traditional chieftainship system.

##### Women

Domestic violence against women occurred frequently, and, although dependable statistics were not available, it was believed to be widespread. In Basotho tradition, a wife may return to her "maiden home" if physically abused by her husband. Under common law, wife beating is a criminal offense and defined as assault; however, few domestic violence cases were brought to trial. Beatings and violence against women perpetrated by husbands or other male relatives occurred frequently but was increasingly considered socially unacceptable behavior.

The law prohibits rape, which is punishable by a minimum sentence of 5 years imprisonment, with no option for a fine. Prostitution is illegal and was a problem; police seldom prosecuted offenders. The law also prohibits sexual harassment; however, in most cases, it was difficult to prove.

Both traditional law and custom under the traditional chieftainship system severely limited the rights of women in areas such as property rights, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce; however, under customary law, a married woman is considered a minor during the lifetime of her husband. She cannot enter into legally binding contracts, whether for employment, commerce, or education, without her husband's consent. A woman married under customary law has no standing in civil court and may not sue or be sued without her husband's permission. Government officials have publicly criticized this customary practice. The tradition of paying a bride price (lobola) was common. Polygamy was practiced by a very small percentage of the population.

Women's rights organizations took a leading role in educating women about their rights under customary and common law, highlighting the importance of women participating in the democratic process. The Ministry of Gender, Youth, Sports, and Recreation funded efforts by women's groups to sensitize society to the status and rights of women.

##### Children

The Child Protection Act of 1980 (CPA) provides for the protection of children; however, limited resources hampered the Government's ability to accord children the level of attention they demand. During the year, Members of Parliament criticized the CPA as insufficient, and Parliament began work on a new law to replace the CPA.

The Government devoted substantial resources to primary and secondary education. Primary education was free. Education was not compulsory even at the primary levels; however, the Minister of Education announced plans to make primary education mandatory by 2007. This proposal had not been acted on at year's end. A substantial number of children did not attend school, particularly in rural areas where there were few schools, where children were involved in subsistence activities in support of their family's welfare, or where families could not afford the costs associated with school attendance, such as fees for the purchase of uniforms, books, and materials. UNICEF estimated that in 2002, 62 percent of boys and 68 percent of girls attended primary school. The problem of school nonattendance affected boys disproportionately more than girls. In traditional rural Basotho society, livestock herding by young boys frequently interfered with their school enrollment (see Section 6.d.).

Familial stress, poverty, the spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment, creating a growing number of street children.

Child prostitution was a problem. Young girls, many of whom were orphans, reportedly moved to urban areas to work as prostitutes. A 2001 UNICEF assessment concluded that child prostitution in the country was a poverty-driven phenomenon rather than a commercial enterprise and that the financial arrangements were casual and not the product of organized criminal syndicates. However, UNICEF and the Government agreed that while the numbers remained small, the trend toward commercial prostitution by children under age 18 was a growing problem in the country. There is little capability within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

#### Trafficking in Persons

The law does not prohibit trafficking in persons; however, there were no reports by NGOs, the media, or the Government that persons were trafficked to, from, or within the country.

#### Persons with Disabilities

Discrimination against persons with physical disabilities in employment, education, or provision of other government services is unlawful, and the Government enforced these laws within its limited means. However, societal discrimination was common. Laws and regulations stipulate that people with disabilities have access to public buildings, and buildings completed after this law entered into force generally complied with the law. The election law does provide for assisted voting for persons with disabilities. The Minister of Justice, Human Rights, Rehabilitation, Law, and Constitutional Affairs is blind; he was appointed to this position in 2001.

#### National/Racial/Ethnic Minorities

Economic and racial tension between the Chinese business community and the Basotho remained a problem. Unlike in the previous year, there were no reports of looting of Chinese-owned shops.

### Section 6 Worker Rights

#### a. The Right of Association

Under the law, workers have the right to join and form trade unions without prior government authorization, and workers exercised this right in practice. The Labor Code prohibits civil servants from joining or forming unions; however, the law allows them to form staff associations. The Government regarded all civil servants as essential employees. Under the Labor Code, prepared with the assistance of the International Labor Organization, all trade union federations must register with the Government. The Department of Labor found that 20 of 43 registered trade unions functioned during the year, with a total membership of 26,198. There were four registered trade union federations: The Lesotho Trade Union Congress, the Lesotho Federation of Democratic Unions, the Lesotho Trade Union Congress, and the Lesotho Congress of Democratic Unions. The labor and trade union movement was weak and fragmented. Several small unions functioned in the public and industrial sectors. The textile sector, which employed over 50,000 persons, had four trade unions.

The Mounted Police Service Act prevents members of the police service from belonging to trade unions but has enabled them to establish a staff association charged with promoting the professional efficiency and interest of members of the service.

Overall unionized workers dropped from approximately 10 percent of the work force in 2002 to approximately 2 percent by the end of 2003, in part because of a dispute between the Lesotho Clothing and Allied Workers Union and the Factory Workers Union (FAWU). Approximately 8 percent of the male labor force worked in the coal and gold mines of South Africa, a number that has fallen in recent years due to retrenchment and mine mechanization. The majority of those who did not work in mining were engaged primarily in traditional agriculture. A majority of Basotho mineworkers were members of the South African National Union of Mineworkers (NUM). While the NUM, as a foreign organization, was not allowed to engage in union activities in the country, it provided training, constructed agricultural projects, and performed other social services.

The law prohibits antiunion discrimination; however, there was credible evidence that some employers prevented union organizers from accessing factory premises to organize workers or represent them in disputes with owners or managers. Some

employees were threatened with expulsion and loss of employment if they joined unions. There were reports that some employers harassed union organizers, intimidated members, and frequently fired union activists, particularly in domestic industries, such as guard forces; however, there were fewer such reports than in previous years. During the year, 32 cases of unfair labor practice were referred to the independent Directorate of Dispute Prevention and Resolution (DDPR) by unions against employers. The Commission of Labor, which operated as part of the Labor Ministry, was charged with investigating allegations of labor law violations (see Section 6.e.).

b. The Right to Organize and Bargain Collectively

The law provides for these rights, and the Government generally respected them in practice; however, some private sector employers tried to restrict them. There was credible evidence that most employers in the textile and garment sector used blacklists to deny employment to workers who had been fired by another employer within that sector. There are no export processing zones.

The law provides for the right to strike; however, civil servants were not allowed to strike, and, by definition, all public sector industrial actions were unauthorized. In the private sector, the Labor Code requires an escalating series of procedures to be followed by workers and employers before strike action is authorized. Legal protection for strikers from retribution has not always been enforced in cases of illegal strikes.

In April, three FAWU officials were acquitted of charges stemming from a November 2003 protest march by garment workers demanding better wages and working conditions. During that protest, police fired into the crowd, allegedly for marching on an unauthorized route; 2 persons were killed and over 100 were injured. An internal police investigation was conducted following the incident; however, no report had been made public by year's end. Dockets are with the Deputy for Public Prosecutions for consideration and advice.

The Labor Code establishes the DDPR within the Ministry of Employment and Labor to provide dispute prevention and resolution mechanisms; the DDPR was independent of government, and maintained a record of handling cases promptly.

The Industrial Peace, Advisory, and Promotion Unit of the DDPR held 30 training workshops on topics such as work discipline and grievance procedures for trade union officials, shop stewards; and management supervisors drawn from the textile, retail, security, construction, catering, and telecommunications industries throughout the country. The training program resulted in a significant reduction of disputes referred for resolution, down from 2,260 in 2003 to 1,988 during the year. Of the disputes referred, 1,865 were resolved by year's end.

The Labor Department also handled employee grievances, and there were no significant backlogs of cases during the year. The Labor Commission was authorized to order the reinstatement of wrongfully dismissed employees and the payment of back wages, but it did not have the authority to impose criminal fines.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

There are statutory prohibitions against the employment of minors in commercial, industrial, or nonfamily enterprises involving hazardous or dangerous working conditions; however, child labor was a problem in the informal sector. The Ministry of Labor and Employment's Inspectorate conducted quarterly inspections during the year.

The legal minimum age for employment in commercial or industrial enterprises is 15 years, and the legal minimum age for hazardous employment is 18 years; however, children under 14 years of age reportedly were employed in family-owned businesses. Children under 18 years of age may not be recruited for employment outside of the country. Child labor laws covered all sectors except the agricultural sector.

Many urban street children worked in the informal sector. Most jobs performed by children were gender-specific: Boys (as young as ages 4 and 5) were livestock herders, carried packages for shoppers, washed cars, and collected fares for minibus taxis; girls were domestic servants; teenage girls (and a few boys) were involved in prostitution; and both boys and girls worked as street vendors.

In traditional society, rigorous and occasionally dangerous working conditions for young livestock herdboys were considered a prerequisite to manhood, essential to the livelihood of families, and a fundamental feature of local culture beyond the reach of labor laws. The emphasis on traditional socialization methods to the exclusion of formal education continued the cycle of poverty for most youth.

e. Acceptable Conditions of Work

A national minimum wage is determined annually by the Wage Advisory Board, a tripartite entity consisting of the Government, trade unions, and employers. The monthly minimum wage for unskilled laborers was \$105 (684 maloti) and \$189 (1,129 maloti) for heavy vehicle operators. Minimum wages for workers in lower skilled jobs did not provide a decent standard of living for a worker and family. Most wage earners supplemented their income through subsistence agriculture or remittances from relatives employed in South Africa.

The Labor Code provides for basic worker rights, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, 12 days of paid leave per year, and paid sick and public holidays; however, employers did not always respect these rights in practice. Required overtime was legal as long as overtime wages were paid for work in excess of the legally mandated 45-hour workweek, and workers in the garment industry were paid the proper overtime rate for overtime hours worked.

The Labor Code requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize the risk of injury; employers generally followed these regulations. The law provides for a compensation system for industrial injuries and diseases related to employment. The Labor Code also empowers the Minister of Labor to make regulations pertaining to work safety in specific areas, and the Ministry has exercised this right. The Labor Code does not protect explicitly the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections on safety in the workplace and dismissal implied that such a dismissal would be illegal.

Labor inspectors generally conducted unannounced inspections in factories four times a year.